

MINUTES

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

7/24/2006 4:30 pm

SUE BEITIA, CLERK

CASE NUMBER: CR 04-00181SOM
CASE NAME: USA vs. (02) Cynthia Agbayani
ATTYS FOR PLA: Leslie Osborne, Jr.
Mark Nakatsu (FBI)
ATTYS FOR DEFT: 02 Samuel King, Jr.
Ellie Asasaki (USPO)

JUDGE:	Susan Oki Mollway	REPORTER:	Debra Chun
DATE:	7/24/2006	TIME:	2:20 - 3:05

COURT ACTION: EP: Sentencing to Counts 1, 4,, 5, 6, and 13 of the Indictment -

Defendant (02) Cynthia Agbayani present and in custody.

The Presentence Investigation Report and the USPO's recommendation are adopted by the Court, and placed under seal.

The Memorandum of Plea Agreement has been accepted by the Court.

Allocution by the Defendant.

ADJUDGED:

Imprisonment: 33 Months as to Counts 1, 4, 5, and 6, such terms to run concurrently.

Supervised Release: 5 Years as to Counts 1, 4, and 5 and 3 Years as to Count 6, such terms to run concurrently.

Restitution: \$1,004,973.78.

Special Assessment: \$400.00 (\$100.00 as to each count).

CONDITIONS:

- ▶ That the defendant shall abide by the standard conditions of supervision.
- ▶ That the defendant not commit any crimes, federal, state, or local (mandatory condition).
- ▶ That the defendant not possess illegal controlled substances (mandatory condition)
- ▶ That the defendant shall cooperate in the collection of DNA as directed by the probation officer.
- ▶ That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day.
- ▶ That the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ▶ That restitution totaling \$1,004,973.78 is due immediately and owed to Wells Fargo Bank, 2535 N. Tustin St., Orange, CA 92865, Attn: Dick Nolan. Of this amount, \$376,000 is to be paid jointly and severally with codefendants Romulo Morales and Remy Agbayani. To the extent that the forfeited proceeds are returned to the victim after Judgment is entered, the Probation Office shall reduce the amount of restitution by the amount that was returned to the victim. Any remaining balance owed upon release from confinement shall be paid during the period of supervision on an installment basis according to the collection policy of the Probation Office but at a rate of not less than 10 percent of her monthly gross income. Interest is waived while the defendant is serving her term of imprisonment and shall commence to accrue on any remaining balance upon her release on supervision.
- ▶ That the defendant execute all financial disclosure forms, and provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include submitting to periodic debtor's examinations as directed by the Probation Office.
- > That the defendant is prohibited from incurring credit charges and lines of credit without the approval of the Probation Office.
- ▶ That the defendant participate in a mental health program at the discretion and direction of the Probation Office.
- > That the defendant shall report all prescription medications within 24 hours of being prescribed by a physician and provide a copy of such prescription to the U.S.

Probation Office.

- > That the defendant shall sign a special medical waiver authorizing all of her physicians to disclose confidential medical information to the U.S. Probation Office.
- > That the defendant shall provide to the Probation Office a signed release authorizing credit checks and an accurate financial statement, with supporting documentation, as to all sources and amounts of income and all expenses of the defendant and any business owned, in whole or in part, by the defendant.
- > That the defendant shall notify the Probation Office of any contemplated employment and shall obtain approval from the Probation Office for all employment. Unless the defendant is self-employed, she may not be employed in any capacity wherein she has custody, control, or management of her employer's funds.
- > That the defendant, however employed, shall not have access to other person's personal information an/or documentation containing personal information, including social security number, date of birth, address, financial and/or credit card account numbers, as directed by the Probation Office.
- > That the defendant shall provide the Probation Office with access to any and all business records, client lists and other records, pertaining to the operation of any business owned, in whole or in part, by the defendant, as directed by the Probation Office.
- > That the defendant shall submit to Voluntary Payroll Deduction at the discretion and direction of the Probation Office.
- > That the defendant shall maintain a single personal bank account, separate and apart from her husband, any family member or others, into which all income, financial proceeds, and gains shall be deposited and from which all expenses shall be paid.
- > That the defendant use her true, legal name, Cynthia Anna Agbayani, unless her name is legally changed, and use her assigned social security number for any purpose, personal, business or otherwise.

Defendant advised of her right to appeal

Government's Motion to Dismiss Remaining Counts (2, 3, 7 - 12) as to this defendant only - Granted.

JUDICIAL RECOMMENDATIONS: 1) FDC Honolulu; 2) Mental Health Treatment; and 3) Medical Treatment.

Government to submit the final order of forfeiture as to Count 13

Defendant remanded to the custody of the USM.

Mittimus forthwith.

Submitted by: Toni Fujinaga, Courtroom Manager.